United Nations A/63/513

General Assembly

Distr.: General
30 October 2008

Original: English

Sixty-third session
Agenda item 131
Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Revised estimates relating to the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 for the biennium 2008-2009

Report of the Secretary-General

Summary

The present report reflects additional resource requirements in the amount of $14,979,500, net of staff assessment, over the initial appropriation for the biennium 2008-2009, as approved by the General Assembly in its resolution 62/230 for the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991. The increased requirements relate primarily to the revision of the trial schedule for 2009 as a result of the recent apprehension of certain high-level accused as well as the continuation into 2009 of some of the trials that were originally planned for completion by the end of 2008. The Assembly is requested to approve an additional appropriation for the biennium 2008-2009 in the amount of $16,043,500 gross ($14,979,500 net) to the Special Account for the International Tribunal for the Former Yugoslavia.

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I. Introduction

1. The General Assembly, in its resolution 62/230, decided to appropriate to the Special Account for the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 a total amount of $347,566,900 gross ($316,472,100 net) for the biennium 2008-2009.

2. In paragraph 7 of his report to the General Assembly on the budget for the Tribunal for the biennium 2008-2009 (A/62/374), the Secretary-General indicated that a number of external factors beyond the Tribunal's control can and will have a major impact on the anticipated completion dates of trials. He also indicated that the trial schedule and the related budget proposal for the biennium 2008-2009 did not take into account resource requirements related to the trials of the four fugitives (Karadžić, Mladić, Župljanin and Hadžić) and that, accordingly, estimates in respect of those fugitives would be addressed in the context of revised estimates as and when the fugitives were apprehended.

3. Since the approval of the budget for the Tribunal for the biennium 2008-2009, there have been two developments that have had an impact on the trial schedule, necessitating the current request for additional resources. First, two of the four fugitives who were at large at the time of budget preparation, Stojan Župljanin and Radovan Karadžić, were apprehended and transferred to the Tribunal on 11 June and 30 July 2008, respectively. Secondly, for reasons beyond the Tribunal's control, the trial schedule for 2009 has been revised to reflect changes in the completion dates of a number of first-instance trials as compared with the schedule available at the time of the preparation of the budget for the biennium 2008-2009.

II. Revised programme of work for 2009

4. The approved budget for the Tribunal was prepared with reference to the trial schedule applicable at the time of the preparation of the budget for the biennium 2008-2009. That trial schedule had contemplated the undertaking of seven concurrent trials during 2008 and the reduction of trial activity during 2009, with five trials running by the end of October 2009 and only two extending into 2010. During the biennium 2008-2009, the Tribunal was expected to hear 14 first-instance trials, involving 37 accused, and to complete 12 cases, involving 35 accused.

5. However, the estimates of the time frame for the completion of the ongoing trials have been revised in the light of progress made since the submission of the initial budget proposals for the biennium 2008-2009. It should be noted that the anticipated commencement and completion dates of trials are based on current estimates, which are subject to change due to factors beyond the control of the Tribunal, such as the health of the accused, the number of interlocutory appeals submitted during the proceedings, requests for replacement of defence counsel and self-representation, unforeseen disclosure of materials and other motions affecting the proceedings, such as the availability of witnesses to certify statements and provide testimony.

6. The original trial schedule of the Tribunal contemplated a reduction in trial activity during 2009. Accordingly, the Tribunal originally anticipated that during

2009 it would be conducting trials and writing judgements in the following nine cases involving 19 accused persons:

(a) Cases in which judgement will be completed: seven cases, involving 17 accused (*Gotovina et al.* (3 accused); *Lukić and Lukić* (2 accused); *Popović et al.* (7 accused); *Šešelj* (1 accused); *Stanišić and Simatović* (2 accused); *Perišić* (1 accused); and *M. Stanišić* (1 accused));

(b) Cases in which trials will be ongoing: two cases, involving 2 accused (*Tolimir* and *Đorđević*).

7. As a result of the apprehension of two high-level fugitives, the Tribunal's trial schedule had to be revised in order to accommodate their trials. The *Stojan Župljanin* case (which was recently joined with the *M. Stanišić* case) and the *Radovan Karadžić* case are expected to commence early in 2009, subject to the availability of judges and courtroom space. Consequently, the Tribunal now anticipates that there will be 15 cases on trial, involving 39 accused, during the biennium 2008-2009, as compared with the 14 cases, involving 37 accused, originally forecast at the time of budget preparation.

8. Furthermore, because of the lengthening of the time frame for completion originally forecast, three first-instance cases (*Prlić et al.*, *Stanišić and Simatović* and *Perišić*) originally scheduled for completion in 2009 are now due for completion in 2010. The Tribunal now expects to complete 9 cases, involving 26 accused, during the biennium 2008-2009, as compared with to 12 cases, involving 35 accused, as set out in the original trial schedule.

9. During 2009, the Tribunal will be conducting trials and writing judgements in 11 cases, involving 27 accused persons, as detailed below:

(a) Cases in which trials will be ongoing: six cases, involving 13 accused (*Perišić* (1 accused); *Karadžić* (1 accused); *Tolimir* (1 accused); *Stanišić and Simatović* (2 accused); *M. Stanišić and Župljanin* (2 accused); and *Prlić et al.* (6 accused));

(b) Cases in which judgement will be completed: five cases, involving 14 accused (*Gotovina et al.* (3 accused); *Lukić and Lukić* (2 accused); *Popović et al.* (7 accused); *Šešelj* (1 accused); and *Đorđević* (1 accused)).

10. In summary, the changes in the trial schedule coupled with the arrest of two fugitives since the time of the preparation of the budget for the biennium 2008-2009 have had a significant impact on the trial workload for 2009. While significant progress in trial proceedings has been made in recent years, factors over which the Tribunal has no control continue to have an impact on the estimated completion dates of trials. The Tribunal is doing its utmost to expedite the proceedings while at the same time ensuring the rights of the accused to due process. As noted in the report of the Secretary-General (A/62/374), efforts have been made and continue to be made by all three organs (the Chambers, the Office of the Prosecutor and the Registry) to increase the pace of trial activity and improve judicial efficiency.

11. The budget of the Tribunal is mainly trial-driven. The greater the number of trials running at the same time, the greater the number of staff in the Chambers, the Office of the Prosecutor and the Registry required to support the proceedings and act as a backstop for the substantive staff. In the schedule used for the preparation of the budget for the biennium 2008-2009, the Tribunal anticipated a decrease in trial

activity as from the third quarter of 2009, following the completion of first-instance trials. It was anticipated that, as at the end of October 2009, the Tribunal would be running five trials concurrently, of which three were due to be completed by the end of December 2009, with the remaining two trials extending into 2010. However, under the latest trial schedule, six trials will be running at the same time to the end of December 2009, with all of them continuing into 2010. On the basis of the new trial schedule, the Tribunal anticipates that there will not be a decrease in trial activity in 2009 as originally planned, with the pace of trial activity in 2009 remaining unaltered at 2008 levels.

III. Status report on trials and referrals as at 31 August 2008

Boškoski and Tarčulovski

12. It was forecast that the judgement in the *Boškoski and Tarčulovski* trial would be issued in April 2008. The judgement was issued on 10 July 2008. The delay of approximately two and a half months was attributable to a delay in the presentation of prosecution evidence, which was due, in part, to the temporary unavailability of an important prosecution witness.

Haradinaj et al.

13. It was forecast that the judgement in the *Haradinaj et al.* trial would be issued in February 2008. It was in fact issued shortly thereafter, on 3 April 2008.

Delić

14. The date of delivery for the *Delić* trial judgement was forecast as the end of June 2008. Instead, it was issued on 15 September 2008. The delay resulted from particularly complicated judicial deliberations on the outcome of the case.

Perišić

15. The *Perišić* trial had not been assigned a fixed slot in the original trial schedule. It was subsequently scheduled to commence in July 2008. The date was revised to October 2008 owing to the need to secure the extension of the terms of office for ad litem judges to be able to sit on the case. Additionally, lead defence counsel withdrew from the case at a late stage.

Gotovina et al.

16. The *Gotovina et al.* trial had not been assigned a fixed spot in the original schedule. It was subsequently assigned to follow the *Haradinaj et al.* trial, and commenced in March 2008.

Lukić and Lukić

17. The *Lukić and Lukić* case was provisionally scheduled to commence in February 2009 following the *Prlić et al.* case. In fact, it commenced seven months earlier, in July 2008, taking the slot vacated by the delayed *Stanišić and Simatović* trial (see para. 19 below).

Popović et al.

18. It was forecast that *Popović et al.* would be completed by the end of April 2009. The estimate has since been revised to the end of August 2009, primarily because of more detailed information concerning the number of defence witnesses and exhibits given by defence teams after the close of the prosecution case, allowing for a more accurate determination of the length of the multiple defence cases.

J. Stanišić and Simatović

19. The *Stanišić and Simatović* trial had not been assigned a fixed spot in the original trial schedule. It was subsequently scheduled to start in March 2008. This was revised to April 2008 owing to the poor health of one of the accused, Stanišić. Pursuant to a decision of the Appeals Chamber, proceedings were adjourned for a minimum period of three months late in May 2008 owing to those health concerns and remain adjourned at present, pending a review of medical reports.

Prlić et al.

20. At the time of the preparation of the budget for the biennium 2008-2009, it was anticipated that the *Prlić et al.* case would continue until January 2009. The end date was subsequently revised to March 2010 in order to allow an additional 23 hours for the prosecution to finish presentation of its evidence (covering six accused and more than 70 crime sites) and sufficient time for the Chamber to adjudicate the various motions for acquittal following the close of the prosecution case and for the various defence teams to prepare their respective cases, and to incorporate a revised estimate of the time needed to complete the defence cases based on more detailed information concerning the number of defence witnesses and exhibits given by defence teams after the close of the prosecution case.

Šešelj

21. There has been no change in the *Šešelj* trial schedule and it is due to be completed in September 2009.

Milutinović et al.

22. The estimate for the completion of the case was September 2008. The date has been revised to late November/early December 2008, as the final close of evidence was later than anticipated owing to problems in securing the attendance of a Chamber witness, who eventually testified in July following subpoenas and the President's referral of Serbia to the Security Council for its non-cooperation in securing the attendance of the witness in question.

Đorđević

23. The *Đorđević* trial was provisionally scheduled to commence in May 2009, following the *Popović et al.* trial. While it does not have a fixed spot in the trial schedule, it is noted that the start date of the trial, to follow *Popović et al.*, has been revised to September 2009.

M. Stanišić and Župljanin

24. The *Stanišić* trial had not been assigned a fixed slot in the original trial schedule, and at that time Župljanin remained a fugitive. Župljanin was subsequently arrested. While the trial schedule did not fix a trial slot for either of those cases, the trials were subsequently joined together, which should have the effect of reducing the trial time forecast from a total of 24 months to 17 months.

Tolimir

25. The *Tolimir* case was provisionally scheduled to begin in March 2009 after the trial that was to follow the *Haradinaj et al* trial. The *Tolimir* trial does not have a fixed slot in the revised trial schedule, following a reorganization of the allocation of trials to the Chambers, necessitated in part by the arrival of Župljanin and Karadžić and the need to integrate *Lukić and Lukić* into the trial schedule.

Karadžić

26. Karadžić was a fugitive at the time of the preparation of the budget for the biennium 2008-2009. No fixed trial slot has yet been assigned to this trial.

IV. Resource requirements

Table 1
Resource requirements by component
(Thousands of United States dollars)

Component	*2008-2009 initial appropriation*	*Change*	*2008-2009 estimate*
Expenditures			
Chambers	13 119.9	200.2	13 320.1
Office of the Prosecutor	87 709.3	5 917.2	93 626.5
Registry	242 350.4	9 926.1	252 276.5
Records management and archives	4 387.3	—	4 387.3
Total requirements (gross)	**347 566.9**	**16 043.5**	**363 610.4**
Income			
Income from staff assessment	31 094.8	1 064.0	32 158.8
Total (net)	**316 472.1**	**14 979.5**	**331 451.6**

Table 2
Resource requirements by object of expenditure
(Thousands of United States dollars)

Component	*2008-2009 initial appropriation*	*Change*	*2008-2009 estimate*
Posts	162 119.7	—	162 119.7
Other staff costs	39 214.7	8 750.3	47 965.0
Non-staff compensation	12 934.1	200.2	13 134.3
Consultants and experts	857.7	—	857.7
Travel	5 513.4	604.8	6 118.2
Contractual services	60 254.1	5 424.2	65 678.3
General operating expenses	29 140.8	—	29 140.8
Hospitality	16.3	—	16.3
Supplies and materials	2 248.7	—	2 248.7
Furniture and equipment	3 561.8	—	3 561.8
Improvement of premises	320.4	—	320.4
Grants and contributions	290.4	—	290.4
Staff assessment	31 094.8	1 064.0	32 158.8
Total (gross)	**347 566.9**	**16 043.5**	**363 610.4**
Income			
Income from staff assessment	31 094.8	1 064.0	32 158.8
Total (net)	**316 472.1**	**14 979.5**	**331 451.6**

27. The overall level of resources approved for the biennium 2008-2009 reflected a reduction in posts and non-post resources in line with the projected reduction in trial activity as from the third quarter of 2009. Based on revised trial projections, the Tribunal anticipates full first-instance trial activity throughout 2009, with the pace of trial activity in 2009 remaining unchanged vis-à-vis the 2008 level.

28. Based on projected reduced trial activity at the time of the finalization of the budget proposals, the approved budget of the Tribunal for the biennium 2008-2009 provided for the gradual phasing out of functions of 258 posts in 2009, as follows: (a) the abolition of 100 posts, effective 1 August 2009 (3 P-5, 8 P-4, 19 P-3, 4 P-2, 61 General Service (Other level) and 5 Security Service); and (b) the abolition of 158 posts, effective 1 November 2009 (4 P-5, 15 P-4, 31 P-3, 23 P-2, 70 General Service (Other level) and 15 Security Service). However, it is recalled that, as indicated in paragraph 25 of the report of the Secretary-General (A/62/374), the abolition of the 258 posts would be effective as at 1 January 2009 and the related funding for the posts provided through general temporary assistance for the continuation of the functions through the period stated above in order to ensure that the Tribunal has the flexibility to accelerate or decelerate the phasing out of individual posts and to provide it with an opportunity to more closely align staff requirements with trial-servicing needs during the critical period of the completion phase.

29. Current projections, including in connection with the recently arrested fugitives, reflect the conduct of seven trials through the end of 2009. Accordingly, the Tribunal would require the continuation up to 31 December 2009 of the functions of the 258 posts earmarked for abolition in the second half of 2009 in order to ensure the steady progress and completion of trial activities and enable the Trial Chambers to optimally utilize courtroom and judicial capacity. Funding for the continuation of the aforementioned functions would be provided through general temporary assistance.

30. In addition, a number of non-post items in the approved budget were adjusted in 2009 to account for the reduced trial activity in 2009. In view of the revised trial projections, additional provisions are requested for the following non-post items: salaries and allowances of judges, general temporary assistance, temporary assistance for translation and interpretation, verbatim reporting, travel of staff, travel of witnesses and defence counsel fees, as detailed in the following paragraphs.

A. Chambers

31. On 5 June and 1 September 2008, the President of the International Tribunal for the Former Yugoslavia requested the Secretary-General to transmit letters to the Presidents of the Security Council and the General Assembly for their consideration and necessary action regarding his request to extend the terms of some of the judges to allow the completion of trial work at the earliest date possible as a result of new developments that would have an impact on the trial schedule, necessitating additional resources (see A/63/458-S/2008/621, annexes I and II). The Security Council, in its resolution 1837 (2008), extended the terms of office of the judges concerned in order to enhance the effectiveness of trial proceedings and contribute towards ensuring the implementation of the completion strategy. By its decision 63/402, the General Assembly endorsed the recommendation of the Secretary-General to authorize the extension of the terms of office of the permanent and ad litem judges of the Tribunal.

Table 3
Requirements by object of expenditure
(Thousands of United States dollars)

Assessed budget

Component	*2008-2009 initial appropriation*	*Change*	*2008-2009 estimate*
Non-staff compensation	12 934.1	200.2	13 134.3
Consultants and experts	34.1	—	34.1
Travel of representatives	151.7	—	151.7
Total (gross)	**13 119.9**	**200.2**	**13 320.1**

Resource requirements

Salaries and allowances of judges

32. The estimated additional requirements of $200,200 under this heading would provide for honorariums for three ad litem judges for an additional 11 work-months to support the additional trials in accordance with the revised trial schedule.

B. Office of the Prosecutor

Table 4
Requirements by object of expenditure
(Thousands of United States dollars)

Assessed budget

Component	*2008-2009 initial appropriation*	*Change*	*2008-2009 estimate*
Posts	55 034.7	—	55 034.7
Other staff costs	20 307.1	4 971.7	25 278.8
Consultants and experts	376.2	—	376.2
Travel	1 149.1	316.0	1 465.1
Contractual services	120.2	—	120.2
Staff assessment	10 722.0	629.5	11 351.5
Total (gross)	**87 709.3**	**5 917.2**	**93 626.5**
Income			
Income from staff assessment	10 722.0	629.5	11 351.5
Total (net)	**76 987.3**	**5 287.7**	**82 275.0**

Resource requirements

Other staff costs

33. The additional amount of $4,971,700 under general temporary assistance is required as follows:

(a) The provision of $3,652,900 would provide for the continuation of the functions for an additional five months of the 65 positions (3 P-5, 8 P-4, 12 P-3, 1 P-2 and 41 General Service (Other level)) and an additional two months of the 65 positions (4 P-5, 14 P-4, 18 P-3, 7 P-2 and 22 General Service (Other level)) that are currently funded to 31 July and 31 October 2009, respectively. The funding through general temporary assistance for the above-mentioned functions to 31 December 2009 is commensurate with the revised level of judicial activities during 2009;

(b) The provision of $1,318,800 would provide for 336 work-months of temporary assistance at the Professional and General Service levels in order to support the two new trials (*Župljanin* and *Karadžić*) and the revised trial schedule in 2009. This would include support in the areas of pre-trial and trial peak support, document translation and indexing and research and analysis.

Travel

34. The additional provision of $316,000 would cover additional requirements needed to support the trials of the two accused arrested in 2008 (Župljanin and Karadžić). A total of 48 missions lasting between 5 and 10 days by an average of two staff of the Trial section are anticipated for 2009. It is anticipated that 32 of those missions will be to the former Yugoslavia, 13 to European countries and 3 to North America. The missions will allow the Office of the Prosecutor to conduct the prosecution of the two additional cases in the most efficient manner through, inter alia, the proofing of prosecution witnesses in order to produce the most effective presentation during the actual trial (including testimony taken under rule 92 bis), review of new documentation and material made available by the local authorities and the collection of new evidence in support of the counts reflected in the amended indictment for Karadžić.

Staff assessment

35. Staff assessment costs are estimated at $629,500 relating to the general temporary assistance positions reflected in paragraph 33 above. Those costs will be offset by a corresponding amount under income from staff assessment.

C. Registry

Table 5
Requirements by object of expenditure
(Thousands of United States dollars)

Assessed budget

Component	*2008-2009 initial appropriation*	*Change*	*2008-2009 estimate*
Posts	107 085.0	—	107 085.0
Other staff costs	18 015.5	3 778.6	21 794.1
Consultants and experts	389.7	—	389.7
Travel	4 186.3	288.8	4 475.1
Contractual services	56 722.7	5 424.2	62 146.9
General operating expenses	29 140.8	—	29 140.8
Hospitality	16.3	—	16.3
Supplies and materials	2 248.7	—	2 248.7
Furniture and equipment	3 561.8	—	3 561.8
Improvement of premises	320.4	—	320.4
Grants and contributions	290.4	—	290.4
Staff assessment	20 372.8	434.5	20 807.3
Total	**242 350.4**	**9 926.1**	**252 276.5**
Income			
Income from staff assessment	20 372.8	434.5	20 807.3
Total requirements (net)	**221 977.6**	**9 491.6**	**231 469.2**

Resource requirements

Other staff costs

36. The additional amount of $3,778,600 is required as set out below:

(a) General temporary assistance ($2,980,900) resources would be required as follows:

(i) The provision of $2,400,500 would provide for the continuation of the functions for an additional five months of the 35 positions (7 P-3, 3 P-2, 20 General Service (Other level) and 5 Security Service) and an additional two months of the 93 positions (1 P-4, 13 P-3, 16 P-2, 48 General Service (Other level) and 15 Security Service) that are currently funded to 31 July and 31 October 2009, respectively. The funding through general temporary assistance for the above-mentioned functions to 31 December 2009 is commensurate with the revised level of judicial activities during 2009;

(ii) The provision of $580,400 would provide for 149 work-months at the Professional and General Service levels, which are required as a result of the arrest of two fugitives and increased judicial activity in 2009. This includes the continuation of critical positions originally earmarked for abolition within the Chambers Legal Support Section, interpretation at field offices and other projects in the Registry including the Victims and Witnesses Section and the judicial database project;

(b) In the light of the additional trial activity during 2009, temporary assistance for meetings ($797,700) would be required for the following:

(i) Temporary assistance for meetings. An additional provision of $618,500, representing 1,438 workdays, will be required under this heading in order to support the additional requirements for interpretation services in the three working languages, namely, English, French and Bosnian/Croatian/Serbian, resulting from the revised trial schedule in 2009;

(ii) Temporary assistance for translation. Estimates in the amount of $179,200 would be required to obtain the services of translators/revisers for translating legal documents submitted by the Office of the Prosecutor, the Registry and the Chambers in various language combinations (English, French and Bosnian/Croatian/Serbian). This represents 450 workdays of temporary assistance, which is required in order to support the additional workload resulting from the revised trial schedule in 2009.

Travel

37. Following the arrest of two fugitives and changes to the trial schedule for 2009, the Tribunal anticipates that an additional 178 witnesses and support persons/dependants will travel to The Hague during 2009 for hearings and trials. The estimate in the amount of $288,800 includes cost of travel, board and lodging and a daily allowance for witnesses to cover incidentals in The Hague.

Contractual services

38. Owing to increased trial activity, an additional amount of $5,424,200 under this category would provide for the following:

(a) Defence counsel fees ($4,878,500). The estimates include additional fees and travel expenses payable during 2009 to defence counsel assigned by the Registrar to represent indigent accused persons;

(b) Contractual verbatim reporting ($545,700). The provision under this heading would cover English and French court reporting services for oral proceedings in courtrooms as well as plenary sessions of judges, and other meetings requiring transcripts. The estimate corresponds to the cost of an additional 613 courtroom days for both English and French services.

Staff assessment

39. Staff assessment costs are estimated at $434,500 relating to the general temporary assistance positions reflected in paragraph 36 above. Those costs will be offset by a corresponding amount under income from staff assessment.

V. Actions to be taken by the General Assembly

40. **The General Assembly is requested to:**

(a) **Take note of the present report;**

(b) **Approve an additional appropriation in the amount of $16,043,500 gross ($14,979,500 net) for the biennium 2008-2009 to the Special Account for the International Tribunal for the Former Yugoslavia.**